THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.41 of 2006

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings issued by the second respondent dated 28.11.2005 as arbitrary and illegal and consequently direct the respondents to pay arrears of salary from 16.7.2002 to 1.1.2004 and belated annual increment petitioner from June 2003 onwards.

According to the petitioner, he passed M.A. (Master of Arts) in Telugu in the year 1980. He was initially appointed on 14.6.1976 as Grade-II Telugu Pandit in a clear aided vacant post. Subsequently he was promoted as Grade-I Telugu Pandit in the year 1983. While so, the State Government issued orders in G.O.Ms.No.203 dated 18.6.1999 creating a channel of promotion to the in-service candidates working in High School to be promoted as Junior Lecturers in Junior Colleges under the same management. According to the said G.O., preference was given to the qualified School Assistants working in High Schools possessing 50% marks in Post Graduation in the relevant subject. If qualified School Assistants are not available, Secondary Grade Teachers will be considered and if there are no qualified Second Grade Teachers, the non-teaching staff working in ministerial service will be considered. If there are no qualified persons available either from any the three categories, management is entitled to fill up the post of Junior Lecturer by way of direct recruitment as per the procedure prescribed in G.O.Ms.No.12 Education dated 10.1.1992. It appears, the post of Junior Lecturer in Telugu fell vacant in the third respondent college due to promotion of one Smt.Ch.Nageswari as Lecturer in Degree College. The third

respondent sent proposals on 4.11.2000 requesting the second respondent to accord permission for filling up the said post by promoting internal eligible and qualified candidate in terms of G.O.Ms.No.203 Education dated 18.6.1999. Similarly, one aided post of Junior Lecturer in Mathematics fell vacant in third respondent college. The second respondent issued proceedings dated 17.3.2001 appointing the District Vocational Educational Officer, Guntur as Departmental nominee to be a member of selection committee. The selection committee was constituted and met on 15.7.2002 recommending the name of petitioner for the post of Junior Lecturer in Telugu and one G.R.V.Prasada Rao, for the post of Junior Lecturer in Mathematics. Thereafter, third respondent issued orders promoting the petitioner as well as G.R.Vara Prasada Rao as Junior Lecturers. Petitioner joined duty on 16.7.2002. Subsequently, third respondent submitted proposals dated 22.7.2002 to the second respondent requesting to grant approval to the promotions made on 15.7.2002. The second respondent, after considering the said proposal, issued proceedings dated 11.6.2003 approving the promotion of G.R.Vara Prasada Rao, Junior Lecturer in Mathematics and he was paid salary from 16.7.2002 onwards i.e. from the date of his promotion. Thereafter, vide proceedings dated 3.7.2003 approved the promotion of petitioner as Junior Lecturer in Telugu. When the third respondent addressed letter dated 23.7.2003 to the second respondent requesting to release the salary of petitioner from 16.7.2002 i.e. date on which petitioner was promoted, the same was rejected. Hence this writ petition.

A detailed counter affidavit has been filed by third respondent, though admitting the case of petitioner, but stated that in view of circular dated 7.11.2003 issued by the Director of Intermediate Education, A.P., Hyderabad, petitioner's case was not considered for

payment of salary from 16.7.2002 onwards.

Heard both sides.

The facts are not much in dispute. It is an admitted fact that petitioner as well as G.R.Vara Prasada Rao were recommended for appointment to the post of Junior Lecturers and the third respondent issued appointment orders on 16.7.2002, but it appears that the appointment of G.R.Vara Prasada Rao was approved on 11.6.2003, and there was some delay in approving the case of the petitioner, which was approved on 3.7.2003. When the third respondent-management requested for release of petitioner's salary from 16.7.2002, second respondent vide proceedings dated 2.1.2004 informed that petitioner's appointment was approved from the date of issuing orders, therefore, he is not entitled to salary from 16.7.2002. Of course, there was no mention as to consideration of the case of G.R.Vara Prasada Rao under similar circumstances. The learned Government Pleader placed before the Court the circular dated 7.11.2003 and stated that in view of the said circular, the promoted candidates will be considered for payment of salary only from the date of approval of their appointment by the competent authority and not from the date of their appointment. In this case, petitioner's case was recommended on 16.7.2002 and G.R.Vara Prasada Rao's case was also recommended on the same day, but his case was approved on 11.6.2003 and whereas petitioner's case was approved on 3.7.2003. In fact, promotions were approved prior to the issuance of circular dated 7.11.2003, therefore, I am of the opinion that the said circular has no application to the case of the petitioner. Further, the promotion of G.R.Vara Prasada Rao was approved on 11.6.2003 and the same was admitted to grant-in-aid and his salary was released, whereas in the case of petitioner whose promotion was approved just 22 days

after the promotion of G.R.Vara Prasada Rao, he was denied with such benefit. I am of the view that this is nothing but discriminatory practice adopted by the respondents. Apart from that, this is not the first appointment of the petitioner. In fact he was holding substantive post of Grade-I Telugu Pandit, which was admitted to grant-in-aid, in the School run by the same management and after conducting due selection process, he was appointed as Lecturer in Telugu with effect from 16.7.2002. It is also not in dispute that the post of Lecturer in Telugu was admitted to grant-in-aid. Under those circumstances, rejecting the case of petitioner for payment of salary from 16.7.2002 is arbitrary and illegal, particularly in view of the fact that the circular dated 7.11.2003 was not in force as on that date. The case of the petitioner ought to have been considered on par with the case of G.R.Vara Prasada Rao.

For all the above reasons, the impugned order dated 28.11.2005 is set aside and the respondents are directed to consider for releasing the salary of the petitioner against aided vacancy of Lecturer with effect from 16.7.2002 to 1.1.2004 and pass appropriate orders as per law, within a period of four weeks from the date of receipt of a copy of this order.

The writ petition is accordingly allowed. No order as to costs.

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C.V.RAMULU,
J

Date: 18.12.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.41 of 2006

18.12.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.41 of 2006

Date: 18th December, 2007

Between:

D.Bala Chandra Mouli

.. Petitioner

And

State of A.P., rep.by its
Principal Secretary to Government,
Higher Education Department,
Secretariat, Saifabad, Hyderabad & others.

.. Respondents